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**AN BILLE UM SHÁBHÁILTEACHT, SLÁINTE AGUS LEAS
AG AN OBAIR (LEASÚ), 1998
SAFETY, HEALTH AND WELFARE AT WORK
(AMENDMENT) BILL, 1998**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Short title, collective citation and construction.
 2. Interpretation.
 3. Safety representatives.
 4. Use of codes of practice in civil and criminal proceedings.
 5. Safety plans.
 6. Alteration of penalties.
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Acts Referred to

European Communities Act, 1972	1972, No. 27
Local Government (Planning and Development) Acts, 1963 to 1998	
Safety, Health and Welfare at Work Act, 1989	1989, No. 7



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(AMENDMENT) BILL, 1998

BILL

entitled

AN ACT TO AMEND THE SAFETY, HEALTH AND WELFARE AT WORK ACT, 1989.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1. — (1) This Act may be cited as the Safety, Health and Welfare at Work (Amendment) Act, 1998.

Short title, collective citation and construction.

(2) The Act of 1989 and this Act shall be construed together as one and may be cited together as the Safety, Health and Welfare at Work Acts, 1989 and 1998.

2. — In this Act, “the Act of 1989” means the Safety, Health and Welfare at Work Act, 1989.

Interpretation.

3. — Section 13 of the Act of 1989 is hereby amended by the substitution of the following subsection for subsection (3):

Safety representatives.

“(3) Without prejudice to the generality of subsections (1) and (2), employees may (and if employed by a prescribed class of person or to undertake a prescribed class of activity or in a prescribed place of work, shall), from time to time, select and appoint from amongst their number at their place of work a representative (‘the safety representative’) to represent them in consultations pursuant to this section with their employer.”.

4. — Section 31 of the Act of 1989 is hereby amended by the substitution of the following subsection for subsection (1):

Use of codes of practice in civil and criminal proceedings.

“(1) A failure on the part of any person to observe any provision of a code of practice shall not of itself render him liable to any civil or criminal proceedings: but where in any such proceedings a party is alleged to have contravened any requirement or prohibition imposed by or under any of the relevant statutory provisions, being a provision for which there was a code of practice at the time of the alleged contravention, subsection (2) shall have effect with respect to that code in relation to those proceedings.”.

Safety plans.

5.—The Act of 1989 is hereby amended by the insertion of the following section after section 35:

“35A.—(1) This section applies to any activities which are proposed to be carried on by or under the control of any person, being activities—

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- (a) to or in relation to which any of the relevant statutory provisions would apply, and
- (b) in respect of which permission has been sought from a planning authority under the Planning Acts.

(2) If, as regards any activities to which this section applies, an inspector is of opinion that such activities may involve a risk to the safety or health of persons, the inspector may serve a direction in writing on the person under whom the activities are proposed to be carried on requesting the submission to the inspector, within the time specified in the direction, for his or her approval, of a safety plan specifying the steps proposed to be taken to ensure compliance with the relevant statutory provisions.

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(3) Where a safety plan is submitted in accordance with subsection (2) and an inspector is not satisfied that the plan is adequate, he or she may direct that the plan be revised and submitted to him within a time specified in the direction.

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(4) A period of time specified in a direction under subsection (2) or (3) shall not be taken into account by a planning authority for the purpose of computing any time limit referred to or applicable under the Planning Acts.

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(5) A planning authority shall not grant permission under the Planning Acts for the carrying on of any activities to which this section applies and in respect of which it has been notified by the Authority, in the prescribed manner, that there has been a failure to comply with the provisions of this section.

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(6) In this section ‘the Planning Acts’ means the Local Government (Planning and Development) Acts, 1963 to 1988.”.

Alteration of penalties.

6.—The Act of 1989 is hereby amended by the substitution of the following section for section 49:

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“49.—(1) Subject to subsection (2), a person guilty of an offence under any of the relevant statutory provisions shall be liable—

- (a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, and
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 10 years or to both.

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(2) Nothing in this section shall be construed as creating an indictable offence, or as permitting the trial on indictment of an offence, in respect of any contravention of regulations made under the European Communities Act, 1972.”.

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EXPLANATORY MEMORANDUM

Purpose of the Bill

The purpose of the Bill is to make several miscellaneous amendments to the Safety, Health and Welfare at Work Act, 1989.

Provisions of Bill

Sections 1 and 2 are standard provisions relating to the short title, collective citation and construction and the interpretation of the Bill.

Section 3 amends section 13 of the Act of 1989. As that section stands at present, it provides that employees may from time to time, select and appoint from amongst their number at their place of work a representative (“the safety representative”) to represent them in consultations with their employer. The amendment imposes an obligation on employees to appoint such a representative where they are employed by a prescribed class of person or to undertake a prescribed class of activity or in a prescribed place of work. The Minister will have power to prescribe the classes of employee to which this provision will apply.

Section 4 amends section 31 of the Act of 1989. That section provides that the provisions of a code of practice made by the National Authority for Occupational Safety and Health are admissible in evidence in criminal proceedings where a contravention of the relevant statutory provisions is alleged. The amendment provides that the provisions of such a code are admissible also in civil proceedings (where, for example, an employee sues his employer for personal injuries alleged to have been sustained in the work place by reason of the negligence of that employer).

Section 5 amends the Act of 1989 by inserting a new section 35A. The Act at present provides for the service of “improvement notices” by an inspector of the Authority which specify remedial action required to be taken by a person carrying on activities to which the relevant statutory provisions apply. Section 35A provides for the service of a safety notice by an inspector on a person who has applied for planning permission in respect of such activities. It also specifies that compliance with the provisions of such a notice shall be a pre-requisite for the grant of such planning permission.

Section 6 increases the penalties provided for in the Act of 1989.
A person guilty of an offence shall be liable—

- (a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, and
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 10 years or to both.

An Teachta Tomás Ó Bracháin,
Nollaig, 1998.